

**IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF OHIO
WESTERN DIVISION AT DAYTON**

LARRY GAPEN,

Petitioner, : Case No. 3:08-cv-280

- vs -

District Judge Walter Herbert Rice
Magistrate Judge Michael R. Merz

DAVID BOBBY, Warden,

Respondent. :


RECOMMITTAL ORDER

This case is before the Court on Petitioner's Objections (Doc. No. 170) to the Magistrate Judge's Decision and Order granting in part and denying in part Petitioner's Motion for Leave to File a Third Amended Petition (Doc. No. 169). Respondent is permitted by Fed. R. Civ. P. 72 to file a response to those Objections but has not yet done so; the Warden's time to respond will expire January 7, 2013.

The District Judge has preliminarily considered the Objections and believes they will be more appropriately resolved after further analysis by the Magistrate Judge. Accordingly, pursuant to Fed. R. Civ. P. 72(b)(3), this matter is hereby returned to the Magistrate Judge with instructions to file a supplemental report analyzing the Objections and any response and making recommendations based on that analysis.

The Court notes that the Warden's time to file objections to the Decision and Order expired December 26, 2012, and no objections were filed.

December 27, 2012.

A handwritten signature in dark ink, appearing to read "Walter Herbert Rice", is positioned above a horizontal line.

Walter Herbert Rice
United States District Judge